Kavanagh v. *Barber*, 131 N. Y. 211, 30 N. E. 235. *Contra, Fort Worth & Rio Grande Ry. Co.* v. *Glenn*, 97 Tex. 586, 80 S. W. 992. See *Towaliga Falls Power Co.* v. *Sims*, 6 Ga. App. 749, 752, 753, 65 S. E. 844, 846. If the plaintiff's injury were occasioned by an act of the defendant and the defendant could have foreseen the injurious quality of the act, there should be a recovery on the ordinary principles of negligence. *Hunt* v. *Lowell Gas Light Co.*, 8 Allen (Mass.) 169. The plaintiff's protection would be complete if there is imposed on the defendant an affirmative duty to take reasonable measures to maintain his premises in a condition which would not cause injury to outsiders.

PUBLIC-SERVICE COMPANIES — REGULATION OF PUBLIC-SERVICE COMPANIES — CONTRACT FOR DIVISION OF TERRITORY: WHETHER AN ILLEGAL RESTRAINT OF COMPETITION. — A state public-utilities law empowered a commission to prevent exorbitant charges. A statute prohibited agreements to restrain competition in the supply of any commodity of general use. The plaintiff and the defendant, two competing telephone companies, entered into a contract to divide the territory. *Held*, that the contract is specifically enforceable. *McKinley Tel. Co.* v. *Cumberland Tel. Co.*, 140 N. W. 38 (Wis.).

Apart from statutes such contracts between public-service companies are generally held void, as being in restraint of trade. *South Chicago City Ry. Co.* v. *Calumet Electric St. Ry. Co.*, 171 Ill. 391, 49 N. E. 576; *Chicago Gas Light & Coke Co.* v. *People's Gas Light & Coke Co.*, 121 Ill. 530, 13 N. E. 169. But *cf. Ives* v. *Smith*, 3 N. Y. Supp. 645, 654. Pooling agreements are equally objectionable. *Chicago, M. & St. P. Ry. Co.* v. *Wabash, St. L. & P. Ry. Co.*, 61 Fed. 993; *Texas & P. Ry. Co.* v. *Southern Pacific Ry. Co.*, 41 La. Ann. 970, 6 So. 888. But *cf. Manchester & L. R. Co.* v. *Concord R. Co.*, 66 N. H. 100, 20 Atl. 383. It is undoubtedly the theory of the common law that competition is essential to trade. See *Hooker* v. *Vandewater*, 4 Den. (N. Y.) 349, 353. But see *Kellogg* v. *Larkin*, 3 Chand. (Wis.) 133, 159. In private business this theory is still unquestioned by the courts, but experience has not vindicated the wisdom of its full application to public callings. The field in any given case must necessarily be very limited, and fierce competition between a few great public-service corporations may often result disastrously for the public. See *Averill* v. *Southern Ry. Co.*, 75 Fed. 736, 738; *Hare* v. *London & N. W. Ry. Co.*, 2 Johns. & H. 80, 103. At least in the case of telephone companies, a regulated monopoly furnishes better service. When a legal restraint was placed on all monopolies by the common law, the uncertain condition of public-service law caused the courts to overlook the fact that in the case of public-service companies, the absolute prohibition of unreasonable rates could have furnished a sure means of preventing the dangers of monopoly. See 2 MORAWETZ, PRIVATE CORPORATIONS, 2 ed., § 1131. When modern legislation has made this means of regulation effective by providing for public-utilities commissions, it seems reasonable for the courts to make an exception to the common-law rule in the case of public-service companies. *Weld* v. *Gas & Electric Light Commissioners*, 197 Mass. 556, 84 N. E. 101.

PUBLIC-SERVICE COMPANIES — WHAT CALLINGS ARE PUBLIC — CEMETERIES. — The respondent corporation maintained a cemetery, for several years serving the general public, both whites and negroes, without discrimination. Thereafter a rule was made that no further lots should be sold to negroes. A negro petitioned for a writ of mandamus to compel the cemetery company to accept the body of his negro wife for burial. *Held*, that the petition was properly dismissed. *People ex rel. Gaskill* v. *Forest Home Cemetery Co.*, 101 N. E. 219 (Ill.).

The principal case raises the question whether the cemetery is a public-service company under duty to serve all the public without discrimination.

Although most cemeteries are private or charitable in nature, nevertheless where there is a clear public profession and where the undertaking is on a strictly business basis the calling is no doubt a public one. See *Evergreen Cemetery Association* v. *Beecher*, 53 Conn. 551, 553, 5 Atl. 353. Thus such corporations have by statute been given the right to acquire property by eminent domain. See *Wolford* v. *Crystal Lake Cemetery Association*, 54 Minn. 440, 445, 56 N. W. 56; *Rosehill Cemetery Co.* v. *Hopkinson*, 114 Ill. 209, 214, 29 N. E. 685. Unless the corporation in the principal case is private or charitable, which does not appear clearly from the facts, the case would seem a proper one for issuing a writ of mandamus.

RAILROADS — LIABILITY FOR FIRES — VALIDITY OF STIPULATIONS AGAINST LIABILITY FOR NEGLIGENCE. — Buildings of an ice company were destroyed by fire through the negligence of a railroad in operating a siding. The siding was on the railroad's right of way and in its control although constructed originally to accommodate the ice company. In an action for damages, the railroad claimed exemption from liability by virtue of a special contract. *Held*, that the contract is against public policy. *Stoneboro & Chautauqua Lake Ice Co.* v. *Lake Shore & Michigan Southern Ry. Co.*, 86 Atl. 87 (Pa.). See NOTES, p. 742.

RECORDING AND REGISTRY LAWS — EFFECT OF RECORDING: IN GENERAL — ADVERSE POSSESSION UNDER UNRECORDED DEED. — A. who had long been in adverse possession of certain land, obtained, before the statute of limitations had completely run in his favor, a deed to the premises from the owner, B., which he never recorded. A. continued to hold for the full period of the statute of limitations and soon after died. C., entering upon the land, obtained a second deed from B., recorded it and sold the land to a purchaser for value without notice. A.'s heirs now claim the property. *Held*, that they are entitled as against the *bonâ fide* purchaser. *Winters* v. *Powell*, 61 So. 96 (Ala.).

As a general rule recording acts do not protect the purchaser of a good record title against one who has acquired a title through adverse possession, whether the adverse possessor was occupying at the time of the purchase or not. *Hughes* v. *Graves*, 39 Vt. 359; *Schall* v. *Williams Valley R. Co.*, 35 Pa. St. 191. The majority of the court in the principal case decided that one can hold adversely although holding under an unrecorded deed. Although no cases exactly in point have been found, this would seem to be contrary to the general effect of recording statutes as construed by the courts, the purpose of recording statutes being only to give notice. As between the original parties and as against any person not expressly protected by the words of the statute, it seems settled that an unrecorded deed is an effective conveyance, recording not being necessary as a part of its execution. *Sidle* v. *Maxwell*, 4 Oh. St. 236; *Aubuchon* v. *Bender*, 44 Mo. 560. The Alabama courts have themselves adopted this view. See *Wood* v. *Lake*, 62 Ala. 489, 492. After the delivery of the unrecorded deed therefore, the grantee's possession could not be adverse, and rights under the unrecorded deed should be inferior to those of the *bonâ fide* purchaser of the record title.

RESTRAINT OF TRADE — SHERMAN ANTI-TRUST ACT — MONOPOLY A CONTINUING OFFENSE. — The defendants were indicted for a monopoly in violation of the Sherman Act. The unfair acts on which the monopoly was built up were committed more than three years prior to the indictment. *Held*, that the three-year statute of limitations is not a bar. *United States* v. *Patterson*, 201 Fed. 697 (Dist. Ct., S. D. Ohio).

In the Standard Oil case, unfair acts committed prior to the passage of the Sherman Act were used to throw light on the intent with which the combination